

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

DIONICIA NUNEZ

Plaintiff,

v.

HOME MORTGAGE DIRECT LENDERS;  
et al.,

Defendants.

3:12-cv-0073-LRH-VPC

ORDER

Before the court is defendants motion to dismiss. Doc. #5.<sup>1</sup> Plaintiff Dionicia Nunez (“Nunez”) did not file an opposition.

In November 2006, Nunez purchased real property through a mortgage note and deed of trust. Plaintiff defaulted on the property and defendants initiated non-judicial foreclosure proceedings. Subsequently, Nunez filed a complaint against defendants. Doc. #1, Exhibit A. Thereafter, defendants filed the present motion to dismiss to which Nunez did not respond. Doc. #5.

While the failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion under LR 7-2(d), Nunez’s failure to file an opposition, in and of itself, is an insufficient ground for dismissal. *See Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Before dismissing a case, a district court is required to weigh several

<sup>1</sup> Refers to the court’s docket number.

1 factors: (1) the public's interest in the expeditious resolution of litigation; (2) the court's need to  
2 manage its docket; (3) the risk of prejudice to the defendant; 4) the public policy favoring  
3 disposition of cases on their merits; and (5) the availability of less dramatic sanctions. *Id.*

4 Here, these factors weigh in favor of dismissal. The need for the expeditious resolution of  
5 cases on the court's docket is strong. Defendants have an interest in resolving this matter in a timely  
6 manner. Further, there is a lack of prejudice to Nunez because she has shown an unwillingness to  
7 continue litigating her complaint which weighs in favor of granting the motion. Additionally,  
8 although public policy favors a resolution on the merits, the court finds that dismissal is warranted  
9 in light of these other considerations.

10  
11 IT IS THEREFORE ORDERED that defendants' motion to dismiss (Doc. #5) is  
12 GRANTED. Plaintiff's complaint (Doc. #1, Exhibit A) is DISMISSED in its entirety.

13 IT IS SO ORDERED.

14 DATED this 17th day of May, 2012.



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17 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE